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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/605,422

06/27/2000

John Dowdal

1.046US

3904

7590

10/02/2003

Paul Grandinetti  
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EXAMINER

PHAM, BRENDA H

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 10/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# **Office Action Summary**

Application No.

09/605,422

Applicant(s)

DOWDAL, JOHN

Examiner

Brenda Pham

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## **Status**

- 1) ☒ Responsive to communication(s) filed on 27/6/2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-11 is/are rejected.
- 7) ☐ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## **Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## **Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## **Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Claims 1-11 have been examined.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-11 are rejected under 35 U.S.C. 102(b) as being anticipated by **Ohlsson et al** (US 6,452,950 B1), hereinafter refer to as **Ohlsson**.

-Regarding claims 1 and 11, **Ohlsson** disclose a method and apparatus for determining jitter in an audio payload packet network (The RTP is a real-time transport protocol that provides end-to-end network transport functions suitable for application transmitting real-time data, such as audio), transporting a plurality of sequential packets having payloads assembled according to a specified codec, comprising the steps of: detecting the arrival time of a first network packet ( $T_a$  is the arrival time of the first packet); determining the duration of said first network packet ( $t_i$  is the packet transmission interval); determining the anticipated arrival time of a subsequent network packet ( $T_{a_n}$  is the expected arrival time of the packet having sequence number  $n$ ) based upon said detected arrival time of said first network packet ( $T_a$ ) and said determined duration of said first network packet (column 8, line 20-21); detecting the arrival time ( $T_{actual_n}$  is the actual arrival time the packet arrives) of said subsequent network

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packet; and determining network jitter ( $v$ ) based upon the difference between said anticipated arrival time and said detected arrival time of said subsequent network packet ( $v = T_{actual_n} - T_{a_n}$ ), column 8, line 35).

-Regarding claim 3, **Ohlsson** further teach wherein said anticipated arrival time ( $T_{a_n}$ ) of said subsequent network packet is determined by adding said determined duration of said first network packet ( $t_i$ ) to said arrival time of said first network packet  $T_{a_n} = t_i * (N_n - N_1) + T_{a_1}$  (see column 8, line 21).

-Regarding claim 4, **Ohlsson** teach wherein said step of detecting the arrival time of said first network packet utilizes a time stamp reference at a packet receiving apparatus without reference to the network time stamping of said packet ( $T_{a_1}$  is the arrival time of the first packet, column 8, line 23).

-Regarding claim 5, **Ohlsson** teach wherein said step of detecting the arrival time of said subsequent network packet utilizes a time stamp reference at a packet receiving apparatus without reference to network time stamping of said packet ( $T_{actual_n}$  is the actual arrival time the packet arrive, column 8, line 36).

-Regarding claim 6, **Ohlsson** teach wherein said subsequent network packet immediately follows said first network in said sequence ( $T_{a_n}$ , where  $n=2$ ).

-Regarding claim 7, **Ohlsson** teach wherein said subsequent network packet is spaced by a predetermined number of packets from said first network packet (Tan, where  $n=4$  is spaced by a predetermined number of packets 2, 3).

-Regarding claims 8-10, **Ohlsson** teach identifying said subsequent network packet based upon the sequence of said network packets (sequence number, see figure 1).

#### ***Allowable Subject Matter***

4. Claim 2 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art made of record does not teaches wherein said duration of said first network packet is determined by detecting the size in bits of the payload of said first network packet; and multiplying said bit size of said payload by the time-duration-per-bit ratio of the packet codec used to encode the packet payload.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cloutier (US 5,790,540) discloses an apparatus and method for correcting jitter in data packets.

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Cloutier et al (US5,805,602) discloses a network monitoring system for cell delay variation.

**Conclusion**

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

fax to:

(703) 308-6743, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington VA Sixth Floor (Receptionist)

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Pham whose telephone number is (703) 308-0148. The examiner can normally be reached on Monday-Friday from 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (703) 305-4366.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

September 17, 2003  
Brenda Pham

